

HON. RICARDO S. MARTINEZ

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DAVID ERNST,

Plaintiff,

v.

ENRIQUE F. VILLALBA, and the marital
community of ENRIQUE F. VILLALBA and
MICHELLE VILLALBA; HYBRID MONEY
MARKET MANAGEMENT, LTD., an Ohio
Limited Liability Corporation; MONEY MARKET
ALTERNATIVES, INC., an Ohio Corporation;
MONEY MARKET ALTERNATIVE, L.P., an Ohio
Limited Partnership; RICO LATTE, a Delaware
Corporation; RICO LATTE II, LLC, an Ohio
Limited Liability Company; and VILLALBA
MANAGEMENT, LLC, an Ohio Limited Liability
Company,

Defendants.

NO. C10-01576-RSM

NOTICE OF VOLUNTARY
DISMISSAL FOR PLAINTIFF
DAVID ERNST PURSUANT TO
RULE 41(a)(1)(A)

I. NOTICE OF DISMISSAL

Plaintiff David Ernst requests the Court to dismiss him without prejudice
from this case pursuant to Rule 41(a)(1)(A) of the Federal Rules of Civil Procedure.

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II. MEMORANDUM

Rule 41(a)(1)(A) provides:

(A) *Without a Court Order.* Subject to Rules 23(e), 23.1(c), 23.2, and 66 and any applicable federal statute, the plaintiff may dismiss an action without a court order by filing:

(i) a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment; or

(ii) a stipulation of dismissal signed by all parties who have appeared.

Fed. R. Civ. P. 41(a)(1)(A).

Plaintiff David Ernst meets these requirements. Defendants have not answered, filed any motion, or appeared in this action. The plaintiff is entitled as a matter of right to dismissal. The dismissal should be without prejudice:

(B) *Effect.* Unless the notice or stipulation states otherwise, the dismissal is without prejudice. But if the plaintiff previously dismissed any federal-or state-court action based on or including the same claim, a notice of dismissal operates as an adjudication on the merits.

Fed. R. Civ. P. 41(a)(1)(B).

III. CONCLUSION

Plaintiff's claims should be dismissed from this case without prejudice.

DATED: November 29, 2011.

SIRIANNI YOUTZ SPOONEMORE

/s/ Chris R. Youtz

Chris R. Youtz (WSBA #7786)

Richard E. Spoonemore (WSBA #21833)

Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I certify, under penalty of perjury under the laws of the State of Washington, that on November 29, 2011, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to counsel on the Electronic Mail Notice List, and that, if applicable, I mailed a copy of the foregoing document to counsel on the Manual Notice List:

Electronic Mail Notice List

- **Richard E Spoonemore**
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- **Chris Robert Youtz**
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Manual Notice List

- (No manual recipients)

DATED: November 29, 2011, at Seattle, Washington.

/s/ Chris R. Youtz

Chris R. Youtz